

# **EXHIBIT 2**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

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UGOCHUKWU GOODLUCK NWAUZOR, )  
FERNANDO AGUIRRE-URBINA, )  
individually and on behalf of )  
all those similarly situated, )  
                                  )  
Plaintiffs/Counter-Defendants. )  
                                  )  
vs.                              ) NO. 3:17-CV-05769-RJB  
THE GEO GROUP, Inc.,         )  
                                  )  
Defendant/Counter-Claimant. )

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DEPOSITION UPON ORAL EXAMINATION OF DEBRA JEAN EISEN

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Friday, December 13, 2019  
Tumwater, Washington

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1   **A No. If we're talking about Department of Corrections.**

2   Q But we're not, are we? We say state procurement, correct?

3                         MS. CHIEN: Object to form.

4   **A Well, my understanding is these matters have to do with the**  
5                         **Department of Corrections.**

6   Q (By Ms. Mell) Why would you think that? Is there anything  
7         in either 18 or 19 that refers to DOC at all?

8   A No, but let's see. There is the rest of the subpoena, and  
9         there is reference to GEO Group, and we have issued a  
10         contract. We did have a contract with GEO Group.

11   Q What kind of contract did you have with Geo Group?

12   A For housing of offenders out of state.

13   Q Okay. Did you have a contract with GEO to house offenders  
14         wherever they're housed?

15   A Out of state.

16   Q Why was it out of state?

17   A That was, I guess, where GEO Group was available to house  
18         overflow offenders.

19   Q So within the contract that you had with the Geo Group, did  
20         that include giving GEO access to the labor of the  
21         incarcerated individuals?

22                         MS. CHIEN: Object to form.

23   A Well, there was a provision in the contract regarding if  
24         offenders -- that offenders could work, yes.

25   Q (By Ms. Mell) Okay. At subminimum wages?

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1           legal answer.

2   **A Also I would like to point out that the Department never**  
3   **used the GEO contract.**

4   **Q (By Ms. Mell) I don't need that answer. I need the answer**  
5   **to the question.**

6   **A Well, your questions to me seem to indicate that we have**  
7   **used the contract. The Department never used that**  
8   **contract.**

9   **Q Okay. So with that caveat, can you answer the question?**

10   **A I thought I already did.**

11   **Q You didn't finish it. You shifted gears.**

12   **A Okay, so -- ask me the question again, please.**

13   **Q All right. Is it correct that the State of Washington DOC**  
14   **does not consider GEO's use of detainee labor at subminimum**  
15   **wages pursuant to its contract, if fulfilled, a violation**  
16   **of the Minimum Wage Act?**

17                 MS. CHIEN: Objection. Calls for a legal  
18                 question -- a legal answer.

19                 **THE WITNESS: May I can answer?**

20                 MS. CHIEN: You can answer to the extent you  
21                 know.

22   **A The extent I know is that the Department is not subject --**  
23   **the Department offenders are not subject to the Washington**  
24   **State Minimum Wage Act. Therefore, it's irrelevant.**

25   **Q (By Ms. Mell) So are there contractors, other than GEO,**

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1 that the State contracts with to hold its offenders?

2 A There are no current contracts, no.

3 Q When was the last time a State of Washington individual in  
4 detention or incarceration was held by a private  
5 contractor?

6 A It ended in 2009.

7 Q So in 2009, what private contractor was holding them?

8 A It was Corrections Corporation of America.

9 | Q What facility?

10 A Outside of the state, there are five different states.

11 O Do you know what facilities state detainees went to?

12 A They went to five different facilities, is my  
13 understanding, in different states.

14 O Yeah, I'm asking which ones.

## 15 A What states?

16      O No. Which facilities.

17 A I would not know that.

18 Q Did they work for CSC?

19 MS CHIEN:

20 A I do not know that.

21 | P a g e (By MS Mail) Did

22 these correctional facilities to see how they operated?

an expired contract -- the State typically does monitor its

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1 number came from?

2 A No. That would be CCA's calculation.

3 Q Why didn't you use the GEO contract? And, obviously, when  
4 I say "you," I mean the State.

5 A The GEO contract was not in effect at that time.

6 Q When was the GEO contract in effect?

7 A From approximately May of '15 to August of '18.

8 Q What did the GEO contract state with respect to detainee  
9 work?

10 A You know, I'm not exactly sure whether it was the same or  
11 different.

12 Q What was the -- well, strike that.

13 When you said that the GEO contract wasn't in effect  
14 at that time, did you mean at the time the CCA contract was  
15 in effect?

16 A Um-hmm.

17 Q Is that a "yes"?

18 A I thought that was your question.

19 Q I don't --

20 A I interpreted your question to mean why didn't you use the  
21 GEO contract? Why did you use the CCA contract?

22 Q Okay.

23 A So the answer to that would be there was no GEO contract at  
24 that time. And I don't know that we would have used GEO  
25 rather than CCA. I don't know what decision-making went

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1           **into that process.**

2   Q So to the best of your understanding, the GEO contract took  
3       effect after the CCA contract?

4   A **Yes, ended.**

5   Q And the GEO contract was entered into by Department of  
6       Corrections for what purpose?

7   A **To house offenders if space was needed. And I believe both**  
8       **contractors were the result of public procurements,**  
9       **competitive procurements, that were issued to find**  
10      **contractors.**

11   Q Through state procurement or through Corrections?

12   A **Through our department.**

13   Q Through Corrections?

14   A **Yes.**

15   Q So what have you done to ascertain whether or not GEO  
16       housed any state incarcerateds?

17   A **I checked with prisons' administrators, prisons' executive**  
18       **staff, to ask for their historical knowledge and the**  
19       **contract manager himself.**

20   Q And how long -- who is the contract manager?

21   A **It was Tom Fithian.**

22   Q How long has Tom Fithian worked for prisons?

23   A **Oh, my gosh. Longer than me, and I've been here almost 20**  
24       **years, so quite a while.**

25   Q What kind of documents would exist to show payment for

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1                   incarcerants to GEO?

2                   MS. CHIEN: Object to form. Misstates the  
3                   testimony.

4   **A Well, to my knowledge, there were no payments to GEO. So**  
5   **there would be no documents to show payments to GEO.**

6   Q (By Ms. Mell) Did you look to see if there were payment  
7                   documents to GEO?

8   **A I did not.**

9   Q So what kind of payment documents could we look for to  
10                  verify whether or not Tom Fithian has a valid historical  
11                  knowledge of whether or not state incarcerated were held by  
12                  GEO?

13   **A One could look for invoices from GEO and payment from --**  
14   **from DOC to GEO during that period of time.**

15   Q But you did not do that work in preparation for this  
16                  deposition?

17   **A I did not, no. My experience has been that Mr. Fithian's**  
18   **knowledge is spot on.**

19   Q And his -- but you don't know how -- do you know whether or  
20                  not his knowledge would date back to May of 2015?

21   **A Yes, it would.**

22   Q Did he tell you why GEO didn't have any State detainees?

23   **A There was no need for that, for the space, and so none were**  
24   **assigned, meaning no incarcerated were sent there. There**  
25   **was no need for that space.**

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1 A The GEO contract died a natural death.

2 Q (By Ms. Mell) Does DOC have a housing contract with a  
3 private contractor at present?

4 A No.

5 Q Has it procured a housing contract with any private  
6 corporation since the GEO contract expired?

7 A No.

8 Q Does DOC contract with any private corporation to use  
9 detainee labor?

10 A No.

11 Q Are you aware of detainees or incarcerated under DOC  
12 jurisdiction doing subminimum wage work?

13 A Yes.

14 Q What do you know about that?

15 A I know that we have, by RCW, work crew programs that --  
16 through which offenders do work either in the prisons or in  
17 the community, and they are paid rates established by the  
18 Secretary, and they are subminimum rates, which are  
19 permitted by law. They can only, however, work for other  
20 governments or public benefit nonprofit corporations.

21 Q Do you know whether or not the work can be performed for  
22 government contractors?

23 A No. Just governments themselves.

24 Q Do you know whether or not private contractors for  
25 government are extended the same protections as government

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C E R T I F I C A T E

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I, DIXIE J. CATTELL, the undersigned Registered Professional Reporter and Washington Certified Court Reporter, do hereby certify:

5

That the foregoing deposition of DEBRA JEAN EISEN was taken before me and completed on the 13th day of December, 2019, and thereafter transcribed by me by means of computer-aided transcription; that the deposition is a full, true and complete transcript of the testimony of said witness;

10

That the witness, before examination, was, by me, duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved signature;

13

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

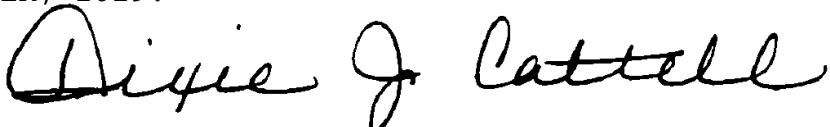
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That I am herewith securely sealing the deposition of DEBRA JEAN EISEN and promptly serving the same upon MS. JOAN MELL.

20

IN WITNESS HEREOF, I have hereunto set my hand this 17th day of DECEMBER, 2019.

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Dixie J. Cattell, RPR, CCR  
NCRA Registered Professional Reporter  
Washington Certified Court Reporter CSR#2346

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